

SENATE BILL 25

N2

0lr0562

(PRE-FILED)

By: **Senators Forehand and Frosh**

Requested: September 10, 2009

Introduced and read first time: January 13, 2010

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts – Property Held as Tenants by the Entireties – Transfer to**
3 **Trust**

4 FOR the purpose of codifying certain common law rules relating to property held by a
5 husband and wife as tenants by the entireties or joint tenants with rights of
6 survivorship; establishing that certain property that is held as tenants by the
7 entireties and conveyed to certain trusts shall retain its immunity from the
8 claims of certain creditors under certain circumstances; and generally relating
9 to property held as tenants by the entireties or joint tenants with rights of
10 survivorship.

11 BY adding to

12 Article – Estates and Trusts

13 Section 14–113

14 Annotated Code of Maryland

15 (2001 Replacement Volume and 2009 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article – Estates and Trusts**

19 **14–113.**

20 **(A) (1) A HUSBAND AND WIFE MAY OWN REAL OR PERSONAL**
21 **PROPERTY AS TENANTS BY THE ENTIRETIES.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(2) PERSONAL PROPERTY MAY BE OWNED AS TENANTS BY THE**
2 **ENTIRETIES WHETHER OR NOT THE PERSONAL PROPERTY REPRESENTS THE**
3 **PROCEEDS OF THE SALE OF REAL PROPERTY.**

4 **(3) ANY PERSONAL PROPERTY THAT IS OWNED BY A HUSBAND**
5 **AND WIFE AND ACQUIRED DURING THEIR MARRIAGE SHALL BE PRESUMED TO**
6 **BE HELD AS TENANTS BY THE ENTIRETIES.**

7 **(4) AN INTENT THAT THE INTEREST OF A DECEASED SPOUSE IN**
8 **PROPERTY SHOULD BELONG TO THE OTHER SPOUSE SHALL BE MANIFEST FROM**
9 **A DESIGNATION OF A HUSBAND AND WIFE AS “TENANTS BY THE ENTIRETIES”,**
10 **“TENANTS BY THE ENTIRETY”, OR “JOINT TENANTS WITH RIGHTS OF**
11 **SURVIVORSHIP”.**

12 **(B) ANY PROPERTY OF A HUSBAND AND WIFE THAT IS HELD BY THEM AS**
13 **TENANTS BY THE ENTIRETIES AND CONVEYED TO THEIR JOINT REVOCABLE OR**
14 **IRREVOCABLE TRUST, OR TO THEIR SEPARATE REVOCABLE OR IRREVOCABLE**
15 **TRUSTS, SHALL HAVE THE SAME IMMUNITY FROM THE CLAIMS OF THEIR**
16 **SEPARATE CREDITORS AS IT WOULD IF THE PROPERTY HAD REMAINED A**
17 **TENANCY BY THE ENTIRETY, AS LONG AS:**

18 **(1) THE SPOUSES REMAIN MARRIED;**

19 **(2) THE PROPERTY CONTINUES TO BE HELD IN THE TRUST OR**
20 **TRUSTS; AND**

21 **(3) THE PROPERTY CONTINUES TO BE THE PROPERTY OF THE**
22 **SPOUSES.**

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2010.